

August 2, 2023

To the stakeholders in the Duxbury Beach discussion,

Please allow me to introduce myself. My name is Christopher Kennedy and for the past forty-five years I have held numerous positions in Massachusetts State government as a marine fisheries biologist, Deputy Director of the Massachusetts Environmental Police, Assistant Commissioner for the Department of Fisheries, Wildlife and Environmental Law Enforcement (now the Department of Fish and Game) as well as the Islands Regional Director and Islands Superintendent for The Trustees of Reservations managing barrier beaches and oversand vehicle permitting and regulation on Martha's Vineyard and Nantucket. Since retiring three years ago I have been assisting the Martha's Vineyard Beachgoers Access Group in their quest to balance proper access to our barrier beach resources while protecting our natural resources. I confer regularly with the senior leadership of The Trustees, our local municipal officials and legislators, MassWildlife and other beach managers to seek best practices which can be applied on the islands beaches. I was also intimately involved in the formulation of the 1993 Massachusetts Shorebird Guidelines with Scott Melvin and was one of the original thirteen authors of the 1994 Massachusetts Barrier Beach Managers Recommendations. In other words, I have been involved in professional beach management and regulation for almost fifty years.

I've been recently asked to review the management operations of Duxbury Beach and it's use of its Certificate of Inclusion with regards to pedestrian and oversand vehicle access. I am always careful when I look at a new beach operation as there are almost always more questions than apparent answers, but I would be curious to hear your thoughts.

You have 25 Least tern "takes" authorized to include herding and protective fencing to keep tern chicks from OSV access paths. Have you used those takes to maintain OSV access to date? If not, why not? In the mid-1980's The Trustees received authorization from Brad Blodgett, the Massachusetts State Ornithologist to use small-mesh protective fencing (1.5 feet in height) to keep unfledged tern chicks from entering the OSV paths at Coskata-Coatue Wildlife Refuge on Nantucket and it was highly effective and resulted in no chick deaths, nor substantial disturbance to the colony located 80 yards away. Other experimentation of this chick fencing on Leland Beach on Chappaquiddick was also shown to be effective in preventing tern chick loss on this state-owned beach. So, fencing can and has been used to provide OSV access while protecting Least tern chick loss.

I have been told and I have read for myself from MassWildlife's online records that DBR has the right to use this fencing technique per its existing COI but has instead closed OSV access until all chicks have fledged. Curious.

I am always concerned when non-profits have the right to do something to allow appropriate public access and then they don't. The turmoil this creates in local communities has a real backlash effect on the perception of the organization's

transparency to its property users and overall community trust. The use of Eminent Domain is a real concern and its use by government entities on beaches has been used in the past to wrest control of beach management from private entities. Such was the case at Leland Beach on Chappaquiddick and Dogfish Bar in Aquinnah on Martha's Vineyard. In some cases, it could be as simple as the seizing of an easement and not the entire property, thus I would urge DBR to carefully consider the impact of complacency when it comes to managing public access.

I may be missing something here, but I imagine that the public's perception of DBR's shorebird management will be called into question especially if it could have provided legal, responsible public access to its beaches this summer. I look forward to working with you, the town, the advocacy groups for reasonable public access and the community at large over the coming years. Please do not hesitate to contact me with any information you feel I should have. In the meanwhile, I wish you the best.

Sincerely,

Christopher Kennedy  
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